

Translation

PATENT COOPERATION TREATY

PCT/EP2003/013324



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P16583	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/013324	International filing date (day/month/year) 26 November 2003 (26.11.2003)	Priority date (day/month/year) 02 December 2002 (02.12.2002)
International Patent Classification (IPC) or national classification and IPC E01F 15/00		
Applicant VON LINDE, Albrecht		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>4</u> sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 23 June 2004 (23.06.2004)	Date of completion of this report 30 March 2005 (30.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages _____ 1-10 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____ 1-15 _____, filed with the letter of _____ 18 February 2005 (18.02.2005)
- ☒ the drawings:
pages _____ 1/7-7/7 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International Application No.

PCT/EP 03/13324

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	5, 8, 10, 11, 13, 14	YES
	Claims	1-4, 6, 7, 9, 12, 15	NO
Inventive step (IS)	Claims		YES
	Claims	1-15	NO
Industrial applicability (IA)	Claims	1-15	YES
	Claims		NO

2. Citations and explanations

- 1.1 The application fails to meet the requirement of PCT Article 33(1) because the subject matter of one of the alternatives in claim 1 is not novel (PCT Article 33(2)).

GB-A-908805 discloses (see, for example, figure 4) a device for modifying the layout of a road section, consisting of an arrangement of individual kerb elements (11, 12) disposed along the road section. The kerb elements can be moved from an initial configuration into a new configuration to divide the road section into separate lanes. To divide the road section into two separate lanes, kerb elements are provided in the middle of the road (see page 1, lines 12 to 20 - "traffic lane"); in their initial configuration the kerb elements are flush with the surface of the road section.

Since the device known from the aforementioned prior art could easily be used for a section of a motor vehicle racetrack, the term "motor vehicle racetrack section" does not distinguish the subject matter of claim 1 from the prior art. The same is true of the relative term "broad road section", and of the feature whereby the kerb elements can be moved "individually

or in groups" (at least one of these options being inherently possible). Thus one of the alternatives defined in claim 1 is anticipated by GB-A-908805 (PCT Article 33(2)).

- 1.2 The other alternative, wherein the new configuration is a new bend curvature, does not require any inventive contribution from a person skilled in the art and therefore also fails to meet the requirement of PCT Article 33(3).
- 2.1 One of the alternatives defined in claim 15 (the new racetrack bend curvature) relates essentially to a method in which a racetrack section is modified by moving kerb elements. Such a method does not exclude the possibility of manual implementation, and therefore this alternative also lacks novelty (PCT Article 33(2)).
- 2.2 Regarding the other alternative, it is noted that the subject matter of the claim differs from the known method in that it involves the layout of a motor vehicle racetrack.

To a person skilled in the art it is obvious that the teaching of GB-A-908805 (relating to the modification of the layout of a normal road section) could also be applied to the layout of a racetrack section, especially since the alternative defined in claim 15 involves dividing the racetrack along the middle to form separate lanes, which is no different from modifying the layout in normal traffic.

The subject matter of the alternative defined in claim 15 therefore does not involve an inventive step (PCT Article 33(3)).

3. Dependent claims 2 to 14 do not contain any features that meet the PCT requirements in respect of novelty and inventive step when combined with the features of any of the back-referenced claims. The reasons for this are as follows:
- Claims 2 to 4, 6, 7, 9 and 12: see GB-A-908805, figure 4, "actuating means", page 2, line 43; elements (11) and (12) can be inclined and tilted.
 - Claims 5, 8, 13 and 14: structural variants
 - Claims 10 and 11: see US-A-2001/048845, figure 5, remote control (45)
4. With reference to PCT Rules 64.3 and 70.10 and PCT/GL/ISPE/1-16.67 and 17.44, it is noted that the international application WO-A-03/012207 ("Safety fence for vehicles", Filing date 02-07-2002, Publication date 13-02-2003) claims a priority date of 23-07-2001.